

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL CASE NO. 1:10cv88**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>DEFAULT JUDGMENT</b>
	)	<b>OF FORFEITURE</b>
<b>47 WEST OAKVIEW ROAD,</b>	)	
<b>ASHEVILLE, BUNCOMBE COUNTY,</b>	)	
<b>NORTH CAROLINA, as described in</b>	)	
<b>a Deed at Deed Book 3359, Page 477,</b>	)	
<b>in the Public Registry of Buncombe</b>	)	
<b>County, North Carolina, being real</b>	)	
<b>property, together with the</b>	)	
<b>residence, and all appurtenances,</b>	)	
<b>improvements, and attachments</b>	)	
<b>thereon,</b>	)	
	)	
<b>and</b>	)	
	)	
<b>\$51,360.00 IN UNITED STATES</b>	)	
<b>CURRENCY,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

**THIS MATTER** is before the Court on the Plaintiff's Motion for Judgment of Forfeiture [Doc. 17].

## **I. PROCEDURAL AND FACTUAL HISTORY**

On March 10, 2010, deputies of the Buncombe County Sheriff's Department, along with officers of the Asheville Police Department, executed a search warrant at a residence located at 47 West Oakview Road, Asheville, North Carolina. [Verified Complaint, Doc. 1 at ¶16]. That residence was owned and occupied at the time by Nathan Kempner. [Id. at ¶¶12-13]. During the execution of the warrant, officers discovered a safe in an office located in the back of the garage that contained approximately 1,452 grams of marijuana. [Id. at ¶¶17-18]. Additionally, officers discovered a trap door underneath a cabinet in the garage which led to two rooms that contained approximately 59 live and growing marijuana plants. [Id. at ¶¶19-24]. Officers also discovered \$51,360.00 in United States currency located in a safe in the closet of the master bedroom of the residence. [Id. at ¶26].

On April 29, 2010, the Plaintiff initiated this civil *in rem* action for forfeiture pursuant to 18 U.S.C. §§ 981, 983, 985, and 21 U.S.C. § 881. [Verified Complaint, Doc. 1]. Notice of this action was personally served on Nathan Kempner on May 14, 2010. [Certificate of Service, Doc. 6]. Notice of civil forfeiture was posted on an official government internet site, [www.forfeiture.gov](http://www.forfeiture.gov), for at least 30 consecutive days beginning on May 11, 2010. [Doc. 10-1]. There were no claims or answers filed in this matter.

The Plaintiff has filed Settlement Agreements with potential claimants Wells Fargo Bank, NA s/b/m Wells Fargo Home Mortgage, Inc. (“Wells Fargo”) and Carolina Power & Light Company, Inc. d/b/a Progress Energy Carolinas, Inc. a/k/a Progress Energy Corporation (“Progress Energy”), reflecting their agreement to settle their interests in the real property. [Docs. 11, 12].

On the Plaintiff’s motion, the Clerk of Court entered default on January 20, 2011 as to all persons and entities except for Wells Fargo and Progress Energy. [Doc. 15]. The Plaintiff now moves for entry of a default judgment of forfeiture against the defendant properties. [Doc. 17].

## **II. DISCUSSION**

No party or entity has filed a claim or answer in this civil forfeiture action as is required by Rule G(5)(a) and (b) of the Supplemental Rules for Admiralty or Maritime and Asset Forfeiture Claims, and default has been entered as to all persons and entities, with the exception of Wells Fargo and Progress Energy. The Court therefore finds that the Plaintiff has established that no potential claimant has timely filed a claim or otherwise answered and default judgment is appropriate.

## **J U D G M E N T**

**IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED** that the Plaintiff's Motion for Judgment of Forfeiture [Doc. 17] is hereby **GRANTED** and Judgment of Forfeiture is **ENTERED** in favor of the United States against all persons and entities in the world with respect to the following defendant properties:

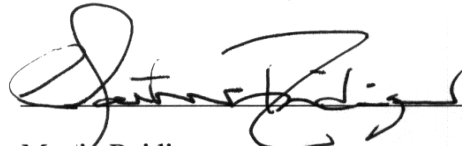
- (1) **47 West Oakview Road, Asheville, Buncombe County, North Carolina, as described in a Deed at Deed Book 3359, Page 477, in the Public Registry of Buncombe County, North Carolina, being real property, together with the residence, and all appurtenances, improvements, and attachments thereon; and**
- (2) **\$51,360.00 in United States Currency.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that any right, title and interest of all persons in the world in or to the defendant properties is hereby forfeited to the United States, and no other right, title, or interest shall exist therein, with the exceptions of the previously docketed interests of Wells Fargo Bank, NA s/b/m Wells Fargo Home Mortgage, Inc. and Carolina Power & Light Company, Inc. d/b/a Progress Energy Carolinas, Inc. a/k/a Progress Energy Corporation, whose interests have been recognized by the United States.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the United States Marshal is hereby directed to dispose of the forfeited defendant properties as provided by law.

**IT IS SO ORDERED.**

Signed: January 27, 2011

  
Martin Reidinger  
United States District Judge

